

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**HORTON HOMES, INC.**

**PLAINTIFF**

**VS.**

**2:07-cv-506-MEF**

**LARUE BANDY, ET. AL.,**

**DEFENDANTS**

**DESIGNATION OF TRIAL EXHIBITS**

Come now the Defendants herein who designate the following as among the exhibits that may be used and offered into evidence at the trial of the above styled cause:

1. Defendants' Exhibit 1 - Joseph H Briley file;
2. Defendants' Exhibit 2 - Certified Court file - Horton Homes vs H & S Homes;
3. Defendants' Exhibit 3 - Horton Homes Loans to H & S Homes;
4. Defendants' Exhibit 4 - Horton Homes checks to H & S Homes;

5. Defendants' Exhibit 5 - Horton Homes Ledger of payments to and from H & S Homes;
6. Defendants' Exhibit 6 - Promissory Note dated 8-31-98 for \$6,328,710.00;
7. Defendants' Exhibit 7 - Check No. 11954 from Horton Homes to H & S Homes dated 9-25-98 for \$6,328,710.00.
8. Defendants' Exhibit 8 - Check No. 18897 to Horton Homes from H & S Homes dated 9-25-98 in the amount of \$6,328,710.00;
9. Defendants' Exhibit 9 - Check No. 177022 to Horton Homes from H & S Homes dated 8-31-06 in the amount of \$850,000.0;
10. Defendants' Exhibit 10 - Check No. 177023 to Horton Homes from H & S Homes dated 8-31-06 in the amount of \$850,000.00;
11. Defendants' Exhibit 11 - Check No. 128573 to Horton Homes from H & S Homes dated 8-27-02 in the amount of \$5,500,000.00;
12. Defendants' Exhibit 12 - Check No. 128574 to Horton Homes from H & S Homes dated 8-27-02 in the amount of \$5,500,000.00;

13. Defendants' Exhibit 13 - Promissory note dated 12-1-01 in the amount of \$32,944,822.09;
14. Defendants' Exhibit 14 - Promissory note dated 8-31-02 in the amount of \$20,490,322.09;
15. Defendants' Exhibit 15 - No Exhibit;
16. Defendants' Exhibit 16 - Textron repurchase agreement;
17. Defendants' Exhibit 17 - Bombardier floor plan repurchase agreement;
18. Defendants' Exhibit 18 - Promissory Note dated 8-31-98 in the amount of \$6,328,710.00; Check number 18897 from H & S Homes to Horton Homes dated 9-25-98 in the amount of \$6,328,710.00; Check number 119547 from Horton Homes dated 9-25-98 in the amount of \$6,328,710.00;
19. Defendants' Exhibit 19 - Tabulation of all checks between 5-12-97 and 9-25-98 totaling \$5,522,000.00;
20. Defendants' Exhibit 20 - Check No. 177022 to Horton Homes from H & S Homes dated 8-31-06 in the amount of \$850,000.00; Check No. 177023 to Horton Homes from H & S Homes dated 8-31-06 in the amount of \$850,000.00;

21. Defendants' Exhibit 21 - No exhibit;
22. Defendants' Exhibit 22 - No Exhibit;
23. Defendants' Exhibit 23 - Identification of Officers, Directors and Shareholders of Horton Homes, Inc.;
24. Defendants' Exhibit 24 - Plaintiff Horton Homes, Inc.'s Submission in Aid of Subject No. 9 - All payments made by Horton Homes, Inc. to H & S Homes, LLC or to any third party on behalf of H & S Homes, LLC for any purpose;
25. Defendants' Exhibit 25 - Plaintiff Horton Homes, Inc.'s Submission in Aid of Subject No. 12 - All payments made by H & S Homes, LLC to Horton Homes, Inc. at any time and for any purpose;
26. Defendants' Exhibit 26 - Plaintiff Horton Homes, Inc.'s Submission in Aid of Subject No. 13 - All documents pertaining to any loan made by Horton Homes, Inc. to H & S Homes, LLC;
27. Defendants' Exhibit 27 - No Exhibit;
28. Defendants' Exhibit 28 - Horton Homes production pages 619 through 804;

29. Defendants' Exhibit 29 - Horton Homes production pages 180 through 434;
30. Defendants' Exhibit 30 - List of checks from Horton Homes to H & S Homes;
31. Defendants' Exhibit 30A - List of checks from Horton Homes to H & S Homes without identification of maker;
32. Defendants' Exhibit 31 - List of checks from H & S Homes to Horton Homes;
33. Defendants' Exhibit 32 - No exhibit;
34. Defendants' Exhibit 33 - No exhibit;
35. Defendants' Exhibit 34 - Horton Homes notes and accounts receivable dated 8/31/07;
36. Defendants' Exhibit 35 - No exhibit;
37. Defendants' Exhibit 36 - Notes for \$32,944,822.09 to Horton Homes from H & S Homes;
38. Defendants' Exhibit 37 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 2 (previously number 5);

- 39. Defendants' Exhibit 38 - Ranking Report;
- 40. Defendants' Exhibit 39 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject numbers 3 and 4;
- 41. Defendants' Exhibit 40 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 5;
- 42. Defendants' Exhibit 41 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 6;
- 43. Defendants' Exhibit 42 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 7;
- 44. Defendants' Exhibit 43 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 8;
- 45. Defendants' Exhibit 44 - Horton Homes Sales Analysis;
- 46. Defendants' Exhibit 44-2S - Horton Homes Dealer Lots Analysis;
- 47. Defendants' Exhibit 44-2B - Horton Homes Sales Lot Analysis;

48. Defendants' Exhibit 45 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 9;
49. Defendants' Exhibit 46 - Plaintiff Horton Homes, Inc.'s submission in aid of new subject number 11;
50. Defendants' Exhibit 47 - Copy of opinion of the Alabama Supreme Court in Christina McDonald vs H & S Homes, L.L.C.;
51. Defendants' Exhibit 48 - Pritchett purchase agreement
52. Defendants' Exhibit 49 - Pritchett arbitration agreement
53. Defendants' Exhibit 50 - Pritchett - furniture invoice
54. Defendants' Exhibit 51 - Pritchett - payment receipt 11700
55. Defendants' Exhibit 52 - Pritchett - payment receipt 18107
56. Defendants' Exhibit 53 - Pritchett - request for loan documents
57. Defendants' Exhibit 54 - Pritchett - supplemental invoice

- 58. Defendants' Exhibit 55 - Pritchett - Horton Homes, Inc. invoice
- 59. Defendants' Exhibit 56 - Teel - purchase agreement
- 60. Defendants' Exhibit 57 - Teel - invoice
- 61. Defendants' Exhibit 57A - Teel - order form
- 62. Defendants' Exhibit 58 - Teel - arbitration agreement
- 63. Defendants' Exhibit 59 - Teel - customer satisfaction sheet
- 64. Defendants' Exhibit 60 - Teel - wheel and axle statement
- 65. Defendants' Exhibit 61 - Teel - property locator
- 66. Defendants' Exhibit 62 - Teel - title application
- 67. Defendants' Exhibit 63 - Teel - cash receipts
- 68. Defendants' Exhibit 64 - Teel - cash receipt
- 69. Defendants' Exhibit 65 - Teel - floor plan pay off instructions sheet



- 70. Defendants' Exhibit 66 - Teel - insurance release form
- 71. Defendants' Exhibit 67 - Teel - insurance contract preparation worksheet
- 72. Defendants' Exhibit 68 - Bandy - purchase agreement
- 73. Defendants' Exhibit 69 - Bandy - installment sales contract
- 74. Defendants' Exhibit 70 - Bandy - bill of sale to Horton Homes
- 75. Defendants' Exhibit 71 - Bandy - special order form
- 76. Defendants' Exhibit 72 - Bandy - manufacturer's invoice
- 77. Defendants' Exhibit 73 - Bandy - purchase agreement
- 78. Defendants' Exhibit 74 - Fondren - title application
- 79. Defendants' Exhibit 74A - Fondren - purchase agreement
- 80. Defendants' Exhibit 75 - Fondren - manufacturer's invoice
- 81. Defendants' Exhibit 76 - Fondren - receipt 28241

- 82. Defendants' Exhibit 77 - Fondren - receipt 28461
- 83. Defendants' Exhibit 78 - Fondren - business cards
- 84. Defendants' Exhibit 79 - Fondren - letter to Horton Homes
- 85. Defendants' Exhibit 80 - Fondren - bill of sale from Horton Homes
- 86. Defendants' Exhibit 81 - McCullough - purchase agreement
- 87. Defendants' Exhibit 82 - McCullough - manufacturer's invoice
- 88. Defendants' Exhibit 83 - McCullough - installment contract
- 89. Defendants' Exhibit 84 - McCullough - Nick's Enterprises statement to Horton Homes
- 90. Defendants' Exhibit 85 - McCullough - HVAC invoice
- 91. Defendants' Exhibit 86 - McCullough - Bama Mobile Home Service invoice
- 92. Defendants' Exhibit 87 - McCullough - R.L. Transport invoice

- 93. Defendants' Exhibit 88 - McCullough - Nick's Enterprises statement 219588
- 94. Defendants' Exhibit 89 - McCullough - Selma Hardware and Supply invoice
- 95. Defendants' Exhibit 90 - Cruthirds - purchase agreement
- 96. Defendants' Exhibit 91 - Cruthirds - title application
- 97. Defendants' Exhibit 92 - Cruthirds - manufacturer's invoice
- 98. Defendants' Exhibit 93 - Cruthirds - Conseco payoff check
- 99. Defendants' Exhibit 94 - Shaner - purchase agreement
- 100. Defendants' Exhibit 95 - Shaner - manufacturer's invoice
- 101. Defendants' Exhibit 95A - Shaner - Horton Homes order form
- 102. Defendants' Exhibit 95B - Shaner - Horton Homes order form
- 103. Defendants' Exhibit 96 - Shaner - installment sales contract
- 104. Defendants' Exhibit 97 - Shaner - Sadco invoice

- 105. Defendants' Exhibit 98 - Shaner - Horton Homes receipts
- 106. Defendants' Exhibit 99 - Shaner - Horton Homes receipt
- 107. Defendants' Exhibit 100 - Shaner - Horton Homes receipt
- 108. Defendants' Exhibit 101 - Shaner - order form
- 109. Defendants' Exhibit 102 - Shaner - Hill Heating and Air invoice
- 110. Defendants' Exhibit 103 - Shaner - service order form
- 111. Defendants' Exhibit 104 - Shaner - service request form
- 112. Defendants' Exhibit 105 - Shaner - service letter
- 113. Defendants' Exhibit 106 - Pritchett - installment sales contract
- 114. Defendants' Exhibit 107 - Pritchett - floor plan pay off instructions
- 115. Defendants' Exhibit 108 - Pritchett - West invoice
- 116. Defendants' Exhibit 109 - Pritchett - invoice for trim

- 117. Defendants' Exhibit 110 - Pritchett - septic service invoice
- 118. Defendants' Exhibit 111 - Pritchett - transport invoice
- 119. Defendants' Exhibit 112 - Pritchett - HVAC invoice
- 120. Defendants' Exhibit 113 - Pritchett - HVAC invoice
- 121. Defendants' Exhibit 114 - Pritchett - service request form
- 122. Defendants' Exhibit 115 - Pritchett - service order
- 123. Defendants' Exhibit 116 - Pritchett - letter regarding service request
- 124. Defendants' Exhibit 117 - Pritchett - order form for mobile home
- 125. Defendants' Exhibit 118 - Pritchett - order form for mobile home
- 126. Defendants' Exhibit 118A - Pritchett - order form for mobile home
- 127. Plaintiff's Exhibit 21 - Horton Homes Audits for 1997 through 2006;

- 128. Plaintiff's Exhibit 26 - Work papers from audit file for Horton Homes - August, 2002;
- 129. Plaintiff's Exhibit 31 - Work papers for audit file for H & S Homes, L.L.C. - August, 2002;
- 130. Plaintiff's Exhibit 518 - Schedule of loans from Horton Homes, Inc. to H & S Homes, L.L.C. and repayments showing principal only starting in 1997;
- 131. Plaintiff's Exhibit 519 - Amounts paid from Horton Homes to H & S Homes.
- 132. Any exhibit listed by Plaintiff and which is not objected to; and
- 133. Any exhibit needed for rebuttal.

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/s/ Michael S. Harper  
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CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of August, 2008 filed the above pleading/discovery electronically with the CM/ECF E-Filing System in Federal District Court.

The below counsel will receive a copy from the system via e-mail if registered in the system. If not, I certify that I have placed a copy of the same in the U.S. mail this date.

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/s/ Michael S. Harper  
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